

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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McKESSON INFORMATION
SOLUTIONS, INC.,

Plaintiff,

v.

BRIDGE MEDICAL, INC.,

Defendant.

NO. CIV. S-02-2669 FCD KJM

MEMORANDUM AND ORDER

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On September 26, 2005, Magistrate Judge Mueller filed Findings and Recommendations ("F&R") on defendant Bridge Medical, Inc.'s ("defendant") motion for summary judgment of non-infringement,¹ recommending denial of the motion. Defendant timely filed objections to the F&R on October 17, 2005 and plaintiff McKesson Information Solutions, Inc. ("plaintiff") replied thereto on October 31, 2005.

¹ By order of August 11, 2005, said motion was referred by the undersigned to the magistrate judge.

1 In accordance with the provisions of 28 U.S.C. §
2 636(b) (1) (C) and Eastern District Local Rule 72-304, this court
3 has conducted a *de novo* review of this matter. Having carefully
4 reviewed the entire file, the court finds the F&R to be supported
5 by the record and by proper analysis.²

6 Accordingly, IT IS HEREBY ORDERED that:

7 The F&R, filed September 26, 2005, is adopted in full.
8 Defendant's motion for summary judgment of non-infringement is
9 DENIED.

10 IT IS SO ORDERED.

11 DATED: December 9, 2005.

12 /s/ Frank C. Damrell Jr.
13 FRANK C. DAMRELL, Jr.
14 UNITED STATES DISTRICT JUDGE
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20 ² The court notes that with respect to the magistrate
21 judge's findings on defendant's motion for *non-direct*
22 infringement, the magistrate judge was not obligated to consider
23 every alternative bases for defendant's motion. While defendant
24 sought a finding of partial summary judgment, the grant of such a
25 motion is discretionary and should be done only if it will
26 "materially expedite the adjudicative process." 10A, Wright &
27 Miller, Fed. Prac. & Proc., § 2737 at 319. Here, the magistrate
28 judge found that there were triable issues of fact on direct
infringement based on defendant's use of the MedPoint System;
that use-theory of direct infringement presents common disputed
issues and facts with the other theories of direct infringement
raised by defendant (namely, making, selling or offering to sell
an infringing system). 35 U.S.C. § 271(a) (there is direct
infringement of a patent only when a party "makes, uses, offers
to sell or sells any patented invention"). As such, it was
properly within the magistrate judge's discretion to decline to
reach these other theories of infringement.